

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**SEP 01 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

GREGORY DICUS,

Petitioner - Appellant,

v.

FRANKIE SUE DEL PAPA; et al.,

Respondents - Appellees.

No. 05-15918

D.C. No. CV-02-00007-HDM

ORDER

Before: RYMER and WARDLAW, Circuit Judges, and SELNA,<sup>\*</sup> District Judge.

The memorandum disposition filed July 6, 2006 is amended as follows:

1. Insert “The latter claim is beyond the scope of the issue which we actually certified. *Compare* ER 838 with *id.* 825, 830-31.” after the sentence ending at page 2, line 15 (“...vindictive addition of the charges.”).
2. Delete the paragraph beginning at page 3, line 8 (“To the extent ...”) and ending at page 3, line 12.

With the above amendments, the panel has voted to deny the petition for rehearing and to reject the suggestion for rehearing en banc.

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<sup>\*</sup> The Honorable James V. Selna, United States District Judge for the Central District of California, sitting by designation.

The petition for rehearing is DENIED, and the suggestion for a rehearing en banc is DENIED.